

Limited Liability Entity Tax

Background **O**n June 28, 2006, the Kentucky General Assembly enacted House Bill 1 during a Special Session convened for the purpose of small business tax relief. The bill was signed into law by Governor Fletcher the same day. Within the single piece of legislation were several modifications to the Tax Modernization measures enacted during the 2005 Regular Session. The creation of the limited liability entity tax (LLET) was one of those modifications.

Effective for taxable years beginning on or after January 1, 2007, the LLET is imposed on corporations and other entities which afford limited liability to their owners, including limited liability companies, limited liability partnerships, limited partnerships, and S corporations. The entities may choose between two computational options to calculate the amount of tax due, based on either Kentucky gross receipts or Kentucky gross profits. The lesser amount of tax resulting from the two options is the amount due.

Current Rate Structure When computing the tax using the gross receipts method, the tax rate is nine and one-half cents per \$100 of gross receipts. When computing the tax using the gross profits method, the tax rate is seventy-five cents per \$100 of gross profits.

Tax Due The taxable period for the LLET is the same taxable period used by the entity for income tax purposes. Entities which can reasonably expect their income tax liability plus their LLET liability to exceed \$5,000 are required to make a declaration of estimate tax, due in three installments.

The tax return and payment of any remaining liability are due on the fifteenth day of the fourth month following the close of the taxable period, April 15 for calendar-year entities. An extension of time to file the return is available; however, to avoid penalty for late payment, all tax due must be submitted by the original due date.

Table 11. Total Limited Liability Entity Tax Expenditures

FY 2008	FY 2009	FY 2010
\$132.4 million	\$136.5 million	\$140.6 million

Tax Expenditures

1. Alcohol Production Facility

Kentucky Revised Statute 141.0401(6)(l), effective January 1, 2007

The tax does not apply to an alcohol production facility as defined in KRS 247.910.

FY 2008	FY 2009	FY 2010
\$158,300	\$166,200	\$181,200

2. Certified Fluidized Bed Energy Production Facility

Kentucky Revised Statute 141.0401(6)(k), effective January 1, 2007

The tax does not apply to a certified fluidized bed energy production facility as defined in KRS 211.390.

FY 2008	FY 2009	FY 2010
\$0	\$0	\$0

3. Cooperatives, Homeowners' Associations, Political Organizations

Kentucky Revised Statute 141.0401(6)(q), effective January 1, 2007

The tax does not apply to cooperatives described in Sections 521 and 1381 of the Internal Revenue Code, including farmer's agricultural and other cooperatives organized or recognized under KRS Chapter 272, advertising cooperatives, purchasing cooperatives, homeowners associations, including those described in Section 528 of the Internal Revenue Code, political organizations as defined in Section 527 of the Internal Revenue Code, and rural electric and rural telephone cooperatives.

FY 2008	FY 2009	FY 2010
\$1.1 million	\$1.2 million	\$1.3 million

4. Costs of Goods Sold, Bulk Delivery Charges, and Indirect Labor

Kentucky Revised Statute 141.0401(6)(d), effective January 1, 2007

When computing the LLET using the gross profits method, Kentucky gross receipts are reduced by the amount of costs of goods sold attributable to Kentucky gross receipts.

FY 2008	FY 2009	FY 2010
\$129.4 million	\$133.3 million	\$137.3 million

5. Open-end Registered Investment Companies

Kentucky Revised Statute 141.0401(6)(j), effective January 1, 2007

The tax does not apply to an open-end registered investment company organized under the laws of this state and registered under the Investment Company Act of 1940.

FY 2008	FY 2009	FY 2010
\$1,000	\$1,000	\$1,000

6. Personal Service Corporations

Kentucky Revised Statute 141.0401(6)(p), effective January 1, 2007

The tax does not apply to a personal service corporation as defined in Section 269A(b) (1) of the Internal Revenue Code.

FY 2008	FY 2009	FY 2010
\$175,000	\$175,000	\$175,000

7. Publicly Traded Partnerships

Kentucky Revised Statute 141.0401(6)(r), effective January 1, 2007

The tax does not apply to a publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code, or its publicly traded partnership affiliate.

FY 2008	FY 2009	FY 2010
\$1.112 million	\$1.179 million	\$1.250 million

8. Real Estate Investment Trust

Kentucky Revised Statute 141.0401(6)(m), effective January 1, 2007

The tax does not apply to a real estate investment trust as defined in Section 856 of the Internal Revenue Code.

FY 2008	FY 2009	FY 2010
\$254,850	\$294,750	\$324,200

9. Regulated Investment Company

Kentucky Revised Statute 141.0401(6)(n), effective January 1, 2007

The tax does not apply to a regulated investment company as defined in Section 851 of the Internal Revenue Code.

FY 2008	FY 2009	FY 2010
\$150,000	\$150,000	\$150,000

10. Real Estate Mortgage Investment Conduit

Kentucky Revised Statute 141.0401(6)(0), effective January 1, 2007

The tax does not apply to a real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code.

FY 2008	FY 2009	FY 2010
\$17,500	\$17,500	\$17,500
